

Exhibit B

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FACEBOOK, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DONALD R. CAMERON, et al.,

Plaintiffs,

vs.

APPLE INC., et al.,

Defendants.

Case No. 4:19-cv-03074-YGR (TSH)

IN RE APPLE IPHONE ANTITRUST
LITIGATION

Case No. 4:11-cv-06714- YGR (TSH)

EPIC GAMES, INC.,

Plaintiff,

vs.

APPLE INC.,

Defendant.

Case No. 4:20-cv-05640-YGR (TSH)

**THIRD-PARTY RESPONDENT
FACEBOOK, INC.'S RESPONSES AND
OBJECTIONS TO DEFENDANT'S
SUBPOENA**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure Third-Party Respondent Facebook, Inc. (“Facebook”), by and through undersigned counsel, submits the following responses and objections to Defendant Apple Inc. (“Apple”)’s Subpoena to Produce Documents (“Subpoena”).

RESERVATION OF RIGHTS

Facebook responds to the Subpoena to the best of its knowledge at the present time and reserves the right at any time to supplement, amend, correct, or clarify its responses and objections, but undertakes no obligation to do so beyond the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, and other applicable orders or rules. Any supplemental or amended response shall not function as a waiver of any privilege or objection Facebook has or may assert. Any response to the Subpoena or a production of documents or things made by Facebook will be solely for the purpose of this action, without waiving or intending to waive, but, on the contrary, preserving and intending to preserve: (a) the right to object on any grounds, at any time, to other discovery requests relating to the subject of the Subpoena to which Facebook has responded; (b) the right to object, on the grounds of competency, privilege, relevancy, materiality, confidentiality, authenticity, admissibility, or any other proper grounds, to the use of the responses, documents, or information provided by Facebook as evidence for any purpose, in whole or in part, in any subsequent proceeding, or in any trial in this action or any other action; and (c) the right at any time to revise, correct, supplement, or clarify Facebook’s responses or objections. That Facebook has objected or responded to a Request for Production (“Request”) in the Subpoena is not and should not be taken as an admission that Facebook accepts or admits the existence of any fact set forth in or assumed by such Request, or as an indication that Facebook agrees with or adopts any characterization or statement within such Request.

OBJECTIONS TO DEFENDANT’S DEFINITIONS & INSTRUCTIONS

Facebook’s Responses are subject to the foregoing objections to Apple’s Definitions and Instructions.

1 1. Facebook objects to the “Definitions” and “Instructions” set forth in the Subpoena,
2 and to each and every Request, Definition, and Instruction using any term(s) defined therein, to the
3 extent that they are inconsistent with or seek to impose obligations beyond those imposed by the
4 Federal Rules of Civil Procedure, the Local Rules of this Court, and/or the terms of the Stipulated
5 Protective Order between Plaintiff Epic Games, Inc. (“Epic”) and Apple, or between any parties to
6 the above-captioned actions.

7 2. Facebook objects to the “Definitions” and “Instructions” set forth in the Subpoena,
8 and to each and every Request, Definition, and Instruction using any term(s) defined therein, as
9 vague, ambiguous, overbroad, and unduly burdensome to the extent that they call for the
10 production of documents dating back to 2008, including documents that are not relevant to any
11 party’s claims or defenses or the production of which is not proportional to the needs of the case.
12 Facebook will conduct a reasonable search for and review documents kept in the ordinary course
13 of business as proportionate to the needs of this case and in a manner that does not subject third-
14 party respondent Facebook to an undue burden.

15 3. Facebook objects to the definition of DOCUMENT and DOCUMENTS set forth in
16 the Subpoena, and to each and every Request, Definition and Instruction using those terms, as
17 overbroad, disproportionate to the needs of the case, and unduly burdensome to third-party
18 respondent Facebook.

19 4. Facebook objects to the “Definitions” and “Instructions” set forth in the Subpoena,
20 and to each and every Request, Definition, and Instruction using any term(s) defined therein, to the
21 extent that they seek information relating to activities outside of the United States.

22 5. Facebook objects to the definition of SOFTWARE STORE and SOFTWARE
23 STORES set forth in the Subpoena, and to each and every Request, Definition and Instruction
24 using those terms, as vague, ambiguous, and overbroad.

25 6. Facebook objects to Instruction Number 3 to the extent it purports to require
26 Facebook, as a third-party respondent, to produce documents in the possession of Facebook’s
27 “present and former attorneys, investigators, accountants, agents, representatives, or other persons
28 acting on YOUR behalf” as overbroad, disproportionate to the needs of the case, and unduly

1 burdensome, and calling for the production of information protected by the attorney-client
2 privilege, the work product doctrine, and/or any other applicable privilege, immunity, or
3 protection.

4 7. Facebook objects to Instruction Number 10 as overbroad, disproportionate to the
5 needs of the case, and unduly burdensome to third-party respondent Facebook. The Requests call
6 for “DOCUMENTS sufficient to show,” or “DOCUMENTS,” not “all DOCUMENTS,” and thus
7 producing a privilege log would be disproportionate to the needs of this case and unduly
8 burdensome.

9 8. Facebook objects to Instruction Number 11 to the extent it purports to require
10 Facebook to search for and produce hard copies of documents as overbroad, disproportionate to
11 the needs of the case, and unduly burdensome to third-party respondent Facebook. Facebook will
12 conduct a reasonable search of e-mails and other reasonably accessible sources of information
13 readily available in the usual course of business that is proportionate to the needs of the case and
14 that does not subject third-party respondent Facebook to an undue burden.

15 **SPECIFIC RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION OF**
16 **DOCUMENTS**

17 The foregoing Objections to Apple’s Definitions and Instructions, and Reservation of
18 Rights are incorporated into each and every specific response as if set forth fully therein.

19 **REQUEST FOR PRODUCTION NO. 1:**

20 DOCUMENTS sufficient to show for each of YOUR APPS, INCLUDING YOUR
21 “Facebook Mobile,” “FACEBOOK GAMING,” “Instagram,” “WhatsApp,” and “Messenger”
22 APPS:

23 a. the monthly active users for each APP on each platform for which the APP is available
24 (including iOS, ANDROID OS, and non-mobile platforms);

25 b. the extent to which users of YOUR APP use YOUR APP on multiple platforms or
26 switch from one platform to another (INCLUDING iOS, ANDROID OS, and nonmobile
27 platforms); and
28

1 c. YOUR understanding as to why users of YOUR APPS do or do not use them on
2 multiple platforms or switch among them (INCLUDING iOS, ANDROID OS, and nonmobile
3 platforms).

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

5 Facebook objects to this Request to the extent it calls for the production of information
6 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
7 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
8 calls for the disclosure of sensitive, confidential, or proprietary information, or information
9 protected by the right to privacy for which no such substantial need has been demonstrated. To
10 the extent that any sensitive, confidential, or proprietary information, or information protected by
11 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
12 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
13 proprietary, or protected private information only subject to and in reliance upon an appropriate
14 protective order governing confidential business information. Facebook additionally objects to
15 this Request to the extent that it seeks information already in Defendant's possession, or available
16 to Defendant from some other source, including information available to Defendant from public
17 sources. Facebook additionally objects to this request to the extent that it calls for the production
18 of data or information in a form that is not maintained and readily accessible in the usual course of
19 business. Facebook additionally objects to subparts 1.b and 1.c of this Request as vague and
20 ambiguous insofar as they do not define what it means for users to "switch" from one platform to
21 another or set forth a time period during which any such switching may occur. Facebook
22 additionally objects to subpart 1.c. of this Request as vague, ambiguous, overbroad, and unduly
23 burdensome insofar as Facebook as a company does not have a singular "understanding" as to
24 why users do or do not use Facebook's apps on multiple platforms or switch among them.

25 Subject to and without waiving the foregoing objections, Facebook responds that it will
26 conduct a reasonable search for and will produce non-privileged documents responsive to Request
27 for Production 1 to the extent they exist, as proportionate to the needs of this case and in a manner
28 that does not subject third-party respondent Facebook to an undue burden.

1 **REQUEST FOR PRODUCTION NO. 2:**

2 DOCUMENTS sufficient to show for each of YOUR APPS, INCLUDING YOUR
3 “Facebook Mobile,” “FACEBOOK GAMING,” “Instagram,” “WhatsApp,” and “Messenger”
4 APPS:

5 a. the PAYMENT PROCESSOR(S) YOU use, if any, for IN-APP PURCHASES for each
6 means of distribution;

7 b. the factors that impacted YOUR decision to use or not use such PAYMENT
8 PROCESSOR(S) for each means of distribution, INCLUDING why YOU chose to use or not use
9 such PAYMENT PROCESSOR(S) and any alternatives YOU considered;

10 c. the past or present fees and commission rates charged by (or, if available, that would be
11 charged by) each such PAYMENT PROCESSOR for IN-APP PURCHASES for each means of
12 distribution, including any exceptions, discounts, promotions, rebates, or marketing programs that
13 lower, or effectively lower, the commission rates and/or fees;

14 d. the impact of such past or present fees and commission rates charged by each such
15 PAYMENT PROCESSOR on the prices YOU charge or charged for IN-APP PURCHASES to
16 consumers;

17 e. the impact of such past or present fees and commission rates charged by each such
18 PAYMENT PROCESSOR on the IN-APP PURCHASE options (or other features or DIGITAL
19 PRODUCTS) YOU provide or considered providing to consumers;

20 f. the availability of alternative PAYMENT PROCESSORS for IN-APP PURCHASES,
21 INCLUDING whether YOU have YOUR own PAYMENT PROCESSOR that could be used but
22 for APPLE’S restrictions, and, for each such potential alternative, the fees and commission rates
23 charged for IN-APP PURCHASES;

24 g. whether users of YOUR APP are given a choice between PAYMENT PROCESSORS
25 for IN-APP PURCHASES on any platform;

26 h. the advantages of giving users a choice of PAYMENT PROCESSORS for IN-APP
27 PURCHASES;

28

1 i. YOUR understanding as to why users of YOUR APP choose to pay through any
2 particular PAYMENT PROCESSOR(S);

3 j. any differences among PAYMENT PROCESSORS regarding security issues;

4 k. any difference among PAYMENT PROCESSOR(S) regarding parental controls; and

5 l. any difference among PAYMENT PROCESSOR(S) regarding YOUR ability to provide
6 customer support.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

8 Facebook objects to this Request to the extent it calls for the production of information
9 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
10 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
11 calls for the disclosure of sensitive, confidential, or proprietary information, or information
12 protected by the right to privacy for which no such substantial need has been demonstrated. To
13 the extent that any sensitive, confidential, or proprietary information, or information protected by
14 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
15 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
16 proprietary, or protected private information only subject to and in reliance upon an appropriate
17 protective order governing confidential business information. Facebook additionally objects to
18 this Request to the extent that it seeks information already in Defendant's possession or available
19 to Defendant from some other source, including information available to Defendant from public
20 sources and/or from any payment processor. Facebook additionally objects to this Request as
21 vague, ambiguous, overbroad, and unduly burdensome to the extent this Request asks Facebook to
22 demonstrate why it did or did not make certain business decisions or to prove a negative.
23 Facebook additionally objects to subpart 2.c of this Request as vague, ambiguous, overbroad, and
24 unduly burdensome to the extent this Request asks Facebook to provide documents to show "any
25 exceptions, discounts, promotions, rebates, or marketing programs that lower, or effectively lower,
26 the commission rates and/or fees." Facebook additionally objects to subpart 2.i of this Request as
27 vague, ambiguous, overbroad, and unduly burdensome insofar as Facebook as a company does not
28 have a singular "understanding" as to why users choose to pay through any particular payment

processor. Facebook further objects to subpart 2.j of this Request as vague and ambiguous insofar as Defendant does not define “security issues.”

Subject to and without waiving the foregoing objections, Facebook responds that it will conduct a reasonable search for and will produce non-privileged documents responsive to Request for Production 2, subparts a-b and g-l, to the extent they exist, as proportionate to the needs of this case and in a manner that does not subject third-party respondent Facebook to an undue burden. For subpart 2c, Facebook responds that it will conduct a reasonable search for and will produce non-privileged documents responsive to Request 2.c only to the extent that documents reflecting policies governing any such “exceptions, discounts, promotions, rebates, or marketing programs that lower, or effectively lower, the commission rates and/or fees” are readily accessible and maintained in the ordinary course of business.

REQUEST FOR PRODUCTION NO. 3:

DOCUMENTS and REPORTS RELATING TO the distribution or planned distribution of any of YOUR APPS in the iOS APP STORE, INCLUDING:

a. DOCUMENTS and REPORTS CONCERNING negotiations between YOU and APPLE RELATING TO APPLE’S Developer Program License Agreement or App Store Review Guidelines;

b. DOCUMENTS and REPORTS CONCERNING negotiations between YOU and APPLE RELATING TO any actual or threatened removal of any of YOUR APPS from the iOS APP STORE;

c. DOCUMENTS and REPORTS CONCERNING any rejected submission of any of YOUR APPS to the iOS APP STORE and efforts by YOU to bring YOUR APPS into compliance and/or resubmit YOUR APP to APPLE; and

d. DOCUMENTS and REPORTS CONCERNING negotiations between YOU and APPLE RELATING TO the PAYMENT PROCESSOR offered in each APP YOU distribute on iOS.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable

1 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 2 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 3 protected by the right to privacy for which no such substantial need has been demonstrated. To
 4 the extent that any sensitive, confidential, or proprietary information, or information protected by
 5 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 6 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 7 proprietary, or protected private information only subject to and in reliance upon an appropriate
 8 protective order governing confidential business information. Facebook additionally objects to
 9 this Request to the extent that it seeks information already in Defendant's possession or available
 10 to Defendant from some other source, including information available to Defendant from public
 11 sources. Facebook additionally objects to this request as overbroad and unduly burdensome to the
 12 extent it seeks documents related to policies or restrictions that are not being challenged in this
 13 case, which are not relevant to any party's claims or defenses and whose production thus is not
 14 proportional to the needs of the case.

15 Subject to and without waiving the foregoing objections, Facebook responds that it will
 16 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 17 for Production 3 to the extent they exist, as proportionate to the needs of this case and in a manner
 18 that does not subject third-party respondent Facebook to an undue burden.

19 **REQUEST FOR PRODUCTION NO. 4:**

20 DOCUMENTS sufficient to show:

21 a. why YOU chose not to offer playable gaming content for YOUR FACEBOOK
 22 GAMING APP on iOS; and

23 b. the impact on YOUR business of YOUR decision to not offer playable gaming
 24 content for YOUR FACEBOOK GAMING APP on iOS.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

26 Facebook objects to this Request to the extent it calls for the production of information
 27 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 28 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it

1 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 2 protected by the right to privacy for which no such substantial need has been demonstrated. To
 3 the extent that any sensitive, confidential, or proprietary information, or information protected by
 4 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 5 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 6 proprietary, or protected private information only subject to and in reliance upon an appropriate
 7 protective order governing confidential business information. Facebook additionally objects to
 8 this Request to the extent that it seeks information already in Defendant's possession or available
 9 to Defendant from some other source, including information available to Defendant from public
 10 sources.

11 Subject to and without waiving the foregoing objections, Facebook responds that it will
 12 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 13 for Production 4 to the extent they exist, as proportionate to the needs of this case and in a manner
 14 that does not subject third-party respondent Facebook to an undue burden.

15 **REQUEST FOR PRODUCTION NO. 5:**

16 DOCUMENTS CONCERNING the impact of APPLE'S contractual or other restrictions
 17 on YOUR iOS APPS, DEVELOPERS, content creators, and businesses, INCLUDING
 18 DOCUMENTS CONCERNING any public comment YOU made about APPLE'S contractual or
 19 other restrictions.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

21 Facebook objects to this Request to the extent it calls for the production of information
 22 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 23 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 24 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 25 protected by the right to privacy for which no such substantial need has been demonstrated. To
 26 the extent that any sensitive, confidential, or proprietary information, or information protected by
 27 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 28 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,

1 proprietary, or protected private information only subject to and in reliance upon an appropriate
 2 protective order governing confidential business information. Facebook further objects to this
 3 Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to
 4 third-party respondent Facebook. Facebook additionally objects to this request as vague and
 5 ambiguous to the extent it purports to cover undefined “other restrictions.” Facebook additionally
 6 objects to this request as overbroad and unduly burdensome to the extent it seeks documents
 7 related to policies or restrictions that are not being challenged in this case, which are not relevant
 8 to any party’s claims or defenses and whose production thus is not proportional to the needs of the
 9 case. Facebook additionally objects to this Request to the extent that it seeks information already
 10 in Defendant’s possession or available to Defendant from some other source, including
 11 information available to Defendant from public sources.

12 Subject to and without waiving the foregoing objections, Facebook responds that it will
 13 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 14 for Production 5 to the extent they exist, as proportionate to the needs of this case and in a manner
 15 that does not subject third-party respondent Facebook to an undue burden.

16 **REQUEST FOR PRODUCTION NO. 6:**

17 DOCUMENTS CONCERNING APPLE’S enforcement and/or interpretation of its
 18 Developer Program License Agreement or App Store Review Guidelines, INCLUDING any
 19 inconsistencies in or changes regarding such enforcement and/or interpretation.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

21 Facebook objects to this Request to the extent it calls for the production of information
 22 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 23 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 24 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 25 protected by the right to privacy for which no such substantial need has been demonstrated. To
 26 the extent that any sensitive, confidential, or proprietary information, or information protected by
 27 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 28 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,

1 proprietary, or protected private information only subject to and in reliance upon an appropriate
 2 protective order governing confidential business information. Facebook further objects to this
 3 Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to
 4 third-party respondent Facebook, particularly to the extent it purports to call for documents
 5 regarding Apple's actions toward other third-party developers. Facebook additionally objects to
 6 this Request as vague and ambiguous in its use of the terms "enforcement" and "interpretation."
 7 Facebook additionally objects to this Request to the extent that it seeks information already in
 8 Defendant's possession or available to Defendant from some other source, including information
 9 available to Defendant from public sources. Facebook additionally objects to this request as
 10 overbroad and unduly burdensome to the extent it seeks documents related to policies or
 11 restrictions that are not being challenged in this case, which are not relevant to any party's claims
 12 or defenses and whose production thus is not proportional to the needs of the case.

13 Subject to and without waiving the foregoing objections, Facebook responds that it will
 14 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 15 for Production 6 to the extent they exist, as proportionate to the needs of this case and in a manner
 16 that does not subject third-party respondent Facebook to an undue burden.

17 **REQUEST FOR PRODUCTION NO. 7:**

18 DOCUMENTS sufficient to show the impact of the iOS APP STORE policies on YOUR
 19 relationship with YOUR customers, INCLUDING CONCERNING policies that:

- 20 a. prevent YOU from informing YOUR iOS customers about alternative platforms
- 21 on which they can buy YOUR DIGITAL PRODUCTS;
- 22 b. require YOU to offer Sign-in with APPLE to YOUR users if YOU offer any
- 23 other third-party login service to YOUR users; and
- 24 c. otherwise restrict YOUR ability to access customer data.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

26 Facebook objects to this Request to the extent it calls for the production of information
 27 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 28 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it

1 calls for the disclosure of sensitive, confidential, or proprietary information, or information
2 protected by the right to privacy for which no such substantial need has been demonstrated. To
3 the extent that any sensitive, confidential, or proprietary information, or information protected by
4 the right to privacy is responsive, its disclosure is proportionate to the needs of the case and a
5 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
6 proprietary, or protected private information only subject to and in reliance upon an appropriate
7 protective order governing confidential business information. Facebook further objects to this
8 Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to
9 third-party respondent Facebook. Facebook additionally objects to this request as overbroad and
10 unduly burdensome to the extent it seeks documents related to policies or restrictions that are not
11 being challenged in this case, which are not relevant to any party's claims or defenses and whose
12 production thus is not proportional to the needs of the case. Facebook additionally objects to this
13 Request to the extent that it seeks information already in Defendant's possession or available to
14 Defendant from some other source, including information available to Defendant from public
15 sources. Facebook additionally objects to this request as vague, ambiguous, overbroad, and
16 unduly burdensome to the extent it seeks documents not relevant to any party's claims or defenses
17 or the production of which is not proportional to the needs of the case.

18 Subject to and without waiving the foregoing objections, Facebook responds that it will
19 conduct a reasonable search for and will produce non-privileged documents responsive to Request
20 for Production 7 to the extent they exist for the specific policies identified in the Request, as
21 proportionate to the needs of this case and in a manner that does not subject third-party respondent
22 Facebook to an undue burden.

23 **REQUEST FOR PRODUCTION NO. 8:**

24 DOCUMENTS sufficient to show a representative sample of any innovations, services,
25 features, APPS or IN-APP PRODUCTS that YOU would have developed or offered for use on
26 iOS DEVICES but did not because iOS APP STORE policies would not have permitted it, would
27 have made it unprofitable, or otherwise caused you to not pursue it.

28

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information, or information protected by the right to privacy for which no such substantial need has been demonstrated. To the extent that any sensitive, confidential, or proprietary information, or information protected by the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a substantial need has been demonstrated, Facebook will produce any such sensitive, confidential, proprietary, or protected private information only subject to and in reliance upon an appropriate protective order governing confidential business information. Facebook additionally objects to this request as overbroad and unduly burdensome to the extent it seeks documents related to policies or restrictions that are not being challenged in this case, which are not relevant to any party's claims or defenses and whose production thus is not proportional to the needs of the case. Facebook additionally objects to this Request as vague, ambiguous, overbroad, and unduly burdensome to the extent it calls for Facebook to demonstrate what would or would not have happened in a counterfactual world or to prove a negative. Facebook additionally objects to this Request as duplicative of other Requests for Production.

Subject to and without waiving the foregoing objections, Facebook responds that it will conduct a reasonable search for and will produce non-privileged documents responsive to Request for Production 8 to the extent they exist and are responsive to other, specific Requests for which Facebook had agreed to search for and produce non-privileged, responsive documents.

REQUEST FOR PRODUCTION NO. 9:

DOCUMENTS sufficient to show whether YOU have offered, could offer, or have evaluated offering a SOFTWARE STORE on iOS DEVICES.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable

1 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 2 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 3 protected by the right to privacy for which no such substantial need has been demonstrated. To
 4 the extent that any sensitive, confidential, or proprietary information, or information protected by
 5 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 6 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 7 proprietary, or protected private information only subject to and in reliance upon an appropriate
 8 protective order governing confidential business information. Facebook additionally objects to
 9 this Request as vague, ambiguous, overbroad, and unduly burdensome to the extent it calls for
 10 Facebook to demonstrate what it hypothetically could do or to prove a negative. Facebook
 11 additionally objects to this Request to the extent that it seeks information already in Defendant's
 12 possession or available to Defendant from some other source, including information available to
 13 Defendant from public sources.

14 Subject to and without waiving the foregoing objections, Facebook responds that it will
 15 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 16 for Production 9 limited to responsive documents sufficient to show whether Facebook has offered
 17 "a SOFTWARE STORE on iOS DEVICES" to the extent they exist, as proportionate to the needs
 18 of this case and in a manner that does not subject third-party respondent Facebook to an undue
 19 burden.

20 **REQUEST FOR PRODUCTION NO. 10:**

21 DOCUMENTS sufficient to show whether APPLE'S contractual or other restrictions have
 22 prevented, impeded, or disincentivized YOU from developing or offering a SOFTWARE STORE
 23 on iOS DEVICES.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

25 Facebook objects to this Request to the extent it calls for the production of information
 26 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 27 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 28 calls for the disclosure of sensitive, confidential, or proprietary information, or information

1 protected by the right to privacy. Facebook additionally objects to this Request to the extent it
 2 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 3 protected by the right to privacy for which no such substantial need has been demonstrated. To
 4 the extent that any sensitive, confidential, or proprietary information, or information protected by
 5 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 6 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 7 proprietary, or protected private information only subject to and in reliance upon an appropriate
 8 protective order governing confidential business information. Facebook additionally objects to
 9 this request as vague, ambiguous, overbroad, and unduly burdensome to the extent it calls for
 10 Facebook to demonstrate why it did or did not make certain business decisions or to prove a
 11 negative.

12 **REQUEST FOR PRODUCTION NO. 11:**

13 DOCUMENTS sufficient to show the key features of YOUR SOFTWARE STORE(S),
 14 such as FACEBOOK APP CENTER or the OCULUS RIFT STORE (INCLUDING any features
 15 that YOU know differ from APPLE'S iOS APP STORE), INCLUDING:

16 a. whether YOU block APPS from YOUR SOFTWARE STORE(S) based on the
 17 manner in which a DEVELOPER delivers content and services, for example, whether content is
 18 installed on a DEVICE or streamed from the cloud;

19 b. whether YOU block APPS from YOUR SOFTWARE STORE(S) based on a
 20 DEVELOPER'S choice of PAYMENT PROCESSOR(S) offered for IN-APP PURCHASES;

21 c. whether YOU block DEVELOPERS from communicating with their users
 22 through their APPS;

23 d. whether YOU permit IN-APP DIGITAL PRODUCTS purchased outside of
 24 YOUR SOFTWARE STORE(S) to be used on APPS purchased from YOUR SOFTWARE
 25 STORE(S);

26 e. whether YOUR SOFTWARE STORE(S) offer features, innovations, and
 27 services that are not available with APPLE iOS APP STORE, such as parental controls, customer
 28

1 service, security features, social features, ADVERTISING features, recommendation features, and
 2 others; and

3 f. whether YOUR SOFTWARE STORE(S) offer tools and services to
 4 DEVELOPERS that iOS APP STORE does not offer to DEVELOPERS.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

6 Facebook objects to this Request to the extent it calls for the production of information
 7 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 8 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 9 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 10 protected by the right to privacy for which no such substantial need has been demonstrated. To
 11 the extent that any sensitive, confidential, or proprietary information, or information protected by
 12 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 13 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 14 proprietary, or protected private information only subject to and in reliance upon an appropriate
 15 protective order governing confidential business information. Facebook additionally objects to
 16 this Request to the extent that it seeks information already in Defendant's possession, or available
 17 to Defendant from some other source, including information available to Defendant from public
 18 sources. Facebook additionally objects to this Request as vague and ambiguous to the extent
 19 Defendant does not define what constitutes "key" features of a software store beyond those
 20 specifically identified in subparts 11.a – 11.f of this Request.

21 Subject to and without waiving the foregoing objections, Facebook responds that it will
 22 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 23 for Production 11 to the extent they exist, as proportionate to the needs of this case and in a
 24 manner that does not subject third-party respondent Facebook to an undue burden.

25 **REQUEST FOR PRODUCTION NO. 12:**

26 DOCUMENTS sufficient to show a representative sample of any exceptions, discounts, or
 27 promotions that YOU have offered to DEVELOPERS that lower the commission rates and/or fees
 28 YOU charge DEVELOPERS for a user IN-APP PURCHASE from an APP accessed from

1 FACEBOOK APP CENTER, FACEBOOK GAMING, the OCULUS RIFT STORE, or any other
2 of YOUR SOFTWARE STORE(S).

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

4 Facebook objects to this Request to the extent it calls for the production of information
5 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
6 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
7 calls for the disclosure of sensitive, confidential, or proprietary information, or information
8 protected by the right to privacy for which no such substantial need has been demonstrated. To
9 the extent that any sensitive, confidential, or proprietary information, or information protected by
10 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
11 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
12 proprietary, or protected private information only subject to and in reliance upon an appropriate
13 protective order governing confidential business information. Facebook additionally objects to
14 this Request to the extent that it seeks information already in Defendant's possession or available
15 to Defendant from some other source, including information available to Defendant from public
16 sources.

17 Subject to and without waiving the foregoing objections, Facebook responds that it will
18 conduct a reasonable search for and will produce non-privileged documents responsive to Request
19 for Production 12 to the extent they exist, as proportionate to the needs of this case and in a
20 manner that does not subject third-party respondent Facebook to an undue burden.

21 **REQUEST FOR PRODUCTION NO. 13:**

22 REPORTS and/or analyses RELATING TO DEVELOPER reinvestment of savings from
23 lower SOFTWARE STORE commissions and/or fees, INCLUDING any impact of such
24 reinvestment on the quantity, quality, or price of APPS.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

26 Facebook objects to this Request to the extent it calls for the production of information
27 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
28 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it

1 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 2 protected by the right to privacy for which no such substantial need has been demonstrated. To
 3 the extent that any sensitive, confidential, or proprietary information, or information protected by
 4 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 5 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 6 proprietary, or protected private information only subject to and in reliance upon an appropriate
 7 protective order governing confidential business information.

8 **REQUEST FOR PRODUCTION NO. 14:**

9 DOCUMENTS sufficient to show whether YOU have offered, could offer, or have
 10 evaluated offering a PAYMENT PROCESSOR for IN-APP PURCHASES compatible with iOS.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

12 Facebook objects to this Request to the extent it calls for the production of information
 13 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 14 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 15 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 16 protected by the right to privacy for which no such substantial need has been demonstrated. To
 17 the extent that any sensitive, confidential, or proprietary information, or information protected by
 18 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 19 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 20 proprietary, or protected private information only subject to and in reliance upon an appropriate
 21 protective order governing confidential business information. Facebook additionally objects to
 22 this request as vague, ambiguous, overbroad, and unduly burdensome to the extent it calls for
 23 Facebook to demonstrate what it hypothetically could do or to prove a negative. Facebook
 24 additionally objects to this Request to the extent that it seeks information already in Defendant's
 25 possession or available to Defendant from some other source, including information available to
 26 Defendant from public sources.

27 Subject to and without waiving the foregoing objections, Facebook responds that it will
 28 conduct a reasonable search for and will produce non-privileged documents responsive to Request

1 for Production 14 limited to responsive documents sufficient to show whether Facebook has
 2 offered “a PAYMENT PROCESSOR for IN-APP PURCHASES compatible with iOS” to the
 3 extent they exist, as proportionate to the needs of this case and in a manner that does not subject
 4 third-party respondent Facebook to an undue burden.

5 **REQUEST FOR PRODUCTION NO. 15:**

6 DOCUMENTS sufficient to show whether APPLE’S contractual or other restrictions have
 7 prevented, impeded, or disincentivized YOU from developing or offering a PAYMENT
 8 PROCESSOR for IN-APP PURCHASES compatible with iOS.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

10 Facebook objects to this Request to the extent it calls for the production of information
 11 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 12 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 13 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 14 protected by the right to privacy for which no such substantial need has been demonstrated. To
 15 the extent that any sensitive, confidential, or proprietary information, or information protected by
 16 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 17 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 18 proprietary, or protected private information only subject to and in reliance upon an appropriate
 19 protective order governing confidential business information. Facebook additionally objects to
 20 this request as overbroad and unduly burdensome to the extent it seeks documents related to
 21 policies or restrictions that are not being challenged in this case, which are not relevant to any
 22 party’s claims or defenses and whose production thus is not proportional to the needs of the case.
 23 Facebook additionally objects to this request as vague, ambiguous, overbroad, and unduly
 24 burdensome to the extent it calls for Facebook to demonstrate why it did or did not make certain
 25 business decisions or to prove a negative.

26 **REQUEST FOR PRODUCTION NO. 16:**

27 DOCUMENTS sufficient to show the characteristics of YOUR PAYMENT
 28 PROCESSOR(S) for each operating system on which they are offered INCLUDING their:

1 a. ability to process payments within DEVELOPERS' APPS, INCLUDING IN-APP
2 PURCHASES for DIGITAL PRODUCTS;

3 b. services offered to DEVELOPERS;

4 c. commission rates, transaction fees, or other pricing models and payment methods;

5 d. availability of coupons, discounts or promotions for transaction fees;

6 e. capability to permit DEVELOPERS to record sales directly;

7 f. security features;

8 g. data and analytics features;

9 h. parental control features; and

10 i. customer service.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

12 Facebook objects to this Request to the extent it calls for the production of information
13 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
14 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
15 calls for the disclosure of sensitive, confidential, or proprietary information, or information
16 protected by the right to privacy for which no such substantial need has been demonstrated. To
17 the extent that any sensitive, confidential, or proprietary information, or information protected by
18 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
19 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
20 proprietary, or protected private information only subject to and in reliance upon an appropriate
21 protective order governing confidential business information. Facebook additionally objects to
22 this Request as vague and ambiguous to the extent it purports to seek information about the
23 characteristics of any PAYMENT PROCESSOR(S) beyond those characteristics specifically
24 identified in the Request. Facebook additionally objects to this Request to the extent that it seeks
25 information already in Defendant's possession or available to Defendant from some other source,
26 including information available to Defendant from public sources.

27 Subject to and without waiving the foregoing objections, Facebook responds that it will
28 conduct a reasonable search for and will produce non-privileged documents responsive to Request

1 for Production 16 to the extent they exist, as proportionate to the needs of this case and in a
 2 manner that does not subject third-party respondent Facebook to an undue burden.

3 **REQUEST FOR PRODUCTION NO. 17:**

4 DOCUMENTS sufficient to show that there is demand for iOS-compatible PAYMENT
 5 PROCESSORS other than APPLE'S IAP.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

7 Facebook objects to this Request to the extent it calls for the production of information
 8 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 9 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 10 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 11 protected by the right to privacy for which no such substantial need has been demonstrated. To
 12 the extent that any sensitive, confidential, or proprietary information, or information protected by
 13 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 14 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 15 proprietary, or protected private information only subject to and in reliance upon an appropriate
 16 protective order governing confidential business information. Facebook additionally objects to
 17 this Request to the extent that it seeks information already in Defendant's possession or available
 18 to Defendant from some other source, including information available to Defendant from public
 19 sources. Facebook additionally objects to this request as vague, ambiguous, overbroad, and
 20 unduly burdensome to the extent it does not define "demand."

21 Subject to and without waiving the foregoing objections, Facebook responds that it will
 22 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 23 for Production 17 to the extent they exist, as proportionate to the needs of this case and in a
 24 manner that does not subject third-party respondent Facebook to an undue burden.

25 **REQUEST FOR PRODUCTION NO. 18:**

26 Any REPORTS prepared by YOU CONCERNING APPLE'S IAP, INCLUDING:

27 a. any comparisons of YOUR PAYMENT PROCESSOR(S) with APPLE'S IAP; and
 28

b. any evaluations of APPLE'S IAP, INCLUDING evaluations CONCERNING APPLE'S IAP's commission and rates, data and analytics, customer service, security, and parental controls.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information, or information protected by the right to privacy for which no such substantial need has been demonstrated. To the extent that any sensitive, confidential, or proprietary information, or information protected by the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a substantial need has been demonstrated, Facebook will produce any such sensitive, confidential, proprietary, or protected private information only subject to and in reliance upon an appropriate protective order governing confidential business information.

REQUEST FOR PRODUCTION NO. 19:

All DOCUMENTS produced by YOU in THIS ACTION.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Facebook objects to this Request as unduly burdensome because it seeks information available to Defendant from any other party to which Facebook has produced documents in this action, including pursuant to the Court's Order Granting Stipulation Regarding Document Subpoenas to Non-Parties, Authenticity and Service, No. 4:20-cv-05640-YGR, ECF 139.

REQUEST FOR PRODUCTION NO. 20:

DOCUMENTS sufficient to show for each of YOUR APPS, INCLUDING YOUR "Facebook Mobile," "FACEBOOK GAMING," "Instagram," "WhatsApp," and "Messenger" APPS,

a. the monthly downloads for each APP on each platform for which the APP is available (including iOS, ANDROID OS, and non-mobile platforms);

b. the revenues from paid downloads (if any) for each APP on each platform for which the APP is available (including iOS, ANDROID OS, and non-mobile platforms);

1 c. the revenues from in-app purchases for each APP on each platform for
2 which the APP is available (including iOS, ANDROID OS, and non-mobile platforms); and

3 d. the revenues remitted to Facebook (i.e., revenues minus commissions) for
4 each APP on each platform for which the APP is available (including iOS, ANDROID OS, and
5 non-mobile platforms).

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

7 Facebook objects to this Request to the extent it calls for the production of information
8 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
9 privilege, immunity, or protection. Facebook additionally objects to this request to the extent that
10 it calls for the production of data or information in a form that is not maintained and readily
11 accessible in the usual course of business. Facebook additionally objects to this Request to the
12 extent it calls for the disclosure of sensitive, confidential, or proprietary information, or
13 information protected by the right to privacy for which no such substantial need has been
14 demonstrated. To the extent that any sensitive, confidential, or proprietary information, or
15 information protected by the right to privacy is responsive, its disclosure is proportionate to the
16 needs of the case, and a substantial need has been demonstrated, Facebook will produce any such
17 sensitive, confidential, proprietary, or protected private information only subject to and in reliance
18 upon an appropriate protective order governing confidential business information.

19 Subject to and without waiving the foregoing objections, Facebook responds that it will
20 conduct a reasonable search for and will produce non-privileged documents responsive to Request
21 for Production 20 to the extent they exist, as proportionate to the needs of this case and in a
22 manner that does not subject third-party respondent Facebook to an undue burden.

23 **REQUEST FOR PRODUCTION NO. 21:**

24 DOCUMENTS sufficient to show a user's ability to use IN-APP PURCHASES made in
25 YOUR APPS, INCLUDING YOUR "Facebook Mobile," "FACEBOOK GAMING," "Instagram,"
26 "WhatsApp," and "Messenger" APPS, on each platform for which the APP is available (including
27 iOS, Android OS, and non-mobile platforms) for redemption on another platform (including iOS,
28 Android OS, and non-mobile platforms).

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information, or information protected by the right to privacy for which no such substantial need has been demonstrated. To the extent that any sensitive, confidential, or proprietary information, or information protected by the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a substantial need has been demonstrated, Facebook will produce any such sensitive, confidential, proprietary, or protected private information only subject to and in reliance upon an appropriate protective order governing confidential business information. Facebook additionally objects to this Request to the extent that it seeks information already in Apple's possession or available to Apple from some other source, including information available to Apple from public sources.

Subject to and without waiving the foregoing objections, Facebook responds that it will conduct a reasonable search for and will produce non-privileged documents responsive to Request for Production 21 to the extent they exist, as proportionate to the needs of this case and in a manner that does not subject third-party respondent Facebook to an undue burden.

REQUEST FOR PRODUCTION NO. 22:

DOCUMENTS sufficient to show for each of YOUR APPS, INCLUDING YOUR "Facebook Mobile," "FACEBOOK GAMING," "Instagram," "WhatsApp," and "Messenger" APPS, the monthly advertising revenue received by YOU on each platform for which the APP is available (including iOS, ANDROID OS, and non-mobile platforms).

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege, immunity, or protection. Facebook additionally objects to this request to the extent that it calls for the production of data or information in a form that is not maintained and readily accessible in the usual course of business. Facebook additionally objects to this Request to the

1 extent it calls for the disclosure of sensitive, confidential, or proprietary information, or
2 information protected by the right to privacy for which no such substantial need has been
3 demonstrated. To the extent that any sensitive, confidential, or proprietary information, or
4 information protected by the right to privacy is responsive, its disclosure is proportionate to the
5 needs of the case, and a substantial need has been demonstrated, Facebook will produce any such
6 sensitive, confidential, proprietary, or protected private information only subject to and in reliance
7 upon an appropriate protective order governing confidential business information. Facebook
8 additionally objects to this Request to the extent that information regarding Facebook's total
9 advertising revenue is available to Apple from other sources, including information available to
10 Apple from public sources.

11 **REQUEST FOR PRODUCTION NO. 23:**

12 DOCUMENTS sufficient to show the comparative benefits to YOU of distributing YOUR
13 APPS through different marketplaces.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

15 Facebook objects to this Request to the extent it calls for the production of information
16 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
17 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
18 calls for the disclosure of sensitive, confidential, or proprietary information, or information
19 protected by the right to privacy for which no such substantial need has been demonstrated. To
20 the extent that any sensitive, confidential, or proprietary information, or information protected by
21 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
22 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
23 proprietary, or protected private information only subject to and in reliance upon an appropriate
24 protective order governing confidential business information. Facebook additionally objects to
25 this Request as vague, ambiguous, overbroad, and unduly burdensome to the extent that it does not
26 define "comparative benefits."

27
28

REQUEST FOR PRODUCTION NO. 24:

DOCUMENTS sufficient to show the services provided to YOU by APPLE related to YOUR APPS, including but not limited to technical support services related to YOUR APPS, comarketing services related to YOUR APPS, and anything that APPLE is providing to YOU to improve the performance and accessibility of YOUR APPS.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information, or information protected by the right to privacy for which no such substantial need has been demonstrated. To the extent that any sensitive, confidential, or proprietary information, or information protected by the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a substantial need has been demonstrated, Facebook will produce any such sensitive, confidential, proprietary, or protected private information only subject to and in reliance upon an appropriate protective order governing confidential business information. Facebook additionally objects to this Request as vague and ambiguous with respect to the term “accessibility.” Facebook additionally objects to this Request to the extent that it seeks information already in Apple’s possession, or available to Apple from some other source, including information available to Apple from public sources.

REQUEST FOR PRODUCTION NO. 25:

Documents sufficient to show the standard commission rate for DEVELOPERS that distribute APPS through FACEBOOK APP CENTER, FACEBOOK GAMING, the OCULUS RIFT STORE, or any other of YOUR SOFTWARE STORE(S).

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

Facebook objects to this Request to the extent it calls for the production of information protected by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it

1 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 2 protected by the right to privacy for which no such substantial need has been demonstrated. To
 3 the extent that any sensitive, confidential, or proprietary information, or information protected by
 4 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 5 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 6 proprietary, or protected private information only subject to and in reliance upon an appropriate
 7 protective order governing confidential business information.

8 Subject to and without waiving the foregoing objections, Facebook responds that it will
 9 conduct a reasonable search for and will produce non-privileged documents responsive to Request
 10 for Production 25 to the extent they exist, as proportionate to the needs of this case and in a
 11 manner that does not subject third-party respondent Facebook to an undue burden. Facebook
 12 further responds that it will not produce any data that is not maintained and readily accessible in
 13 the usual course of business.

14 **REQUEST FOR PRODUCTION NO. 26:**

15 Documents sufficient to show the standard contractual agreements between YOU and
 16 DEVELOPERS who distribute APPS through FACEBOOK APP CENTER, FACEBOOK
 17 GAMING, the OCULUS RIFT STORE, or any other of YOUR SOFTWARE STORE(S).

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

19 Facebook objects to this Request to the extent it calls for the production of information
 20 protected by the attorney-client privilege, the work product doctrine, and/or any other applicable
 21 privilege, immunity, or protection. Facebook additionally objects to this Request to the extent it
 22 calls for the disclosure of sensitive, confidential, or proprietary information, or information
 23 protected by the right to privacy for which no such substantial need has been demonstrated. To
 24 the extent that any sensitive, confidential, or proprietary information, or information protected by
 25 the right to privacy is responsive, its disclosure is proportionate to the needs of the case, and a
 26 substantial need has been demonstrated, Facebook will produce any such sensitive, confidential,
 27 proprietary, or protected private information only subject to and in reliance upon an appropriate
 28 protective order governing confidential business information.

1 Subject to and without waiving the foregoing objections, Facebook responds that it will
2 conduct a reasonable search for and will produce non-privileged documents responsive to Request
3 for Production 26 to the extent they exist, as proportionate to the needs of this case and in a
4 manner that does not subject third-party respondent Facebook to an undue burden.

5
6 DATED: January 6, 2021

MUNGER, TOLLES & OLSON LLP

7
8 By: /s/ Rosemarie T. Ring
9 ROSEMARIE T. RING
10 Attorneys for Facebook, Inc.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 560 Mission Street, Twenty-Seventh Floor, San Francisco, CA 94105-2907.

On **January 6, 2021**, I served true copies of the following document(s) described as:

THIRD-PARTY RESPONDENT FACEBOOK, INC.'S RESPONSES AND OBJECTIONS TO DEFENDANT'S SUBPOENA

on the interested parties in this action as follows:

Karen M. Lent
karen.lent@skadden.com
Evan R. Kreiner
evan.kreiner@skadden.com
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
One Manhattan West
New York, NY 10001

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the above-referenced document(s) to be sent from the e-mail address *emily.curran-huberty@mto.com* to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on January 6, 2021, at San Francisco, California.

Emily Curran-Huberty